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SUBJECT: IAEA/IRAN: SECRETARIAT TELLS MEMBER STATES THAT
THE ARAK TC PROJECT WILL NOT ADVANCE ENRICHMENT AND
REPROCESSING ACTIVITIES.

Summary

¶1. (SBU) During a technical briefing on November 15, the IAEA Secretariat advised that TC project IRA/9/019 (Strengthening Safety Capabilities for the Construction of a research Reactor) was not directly linked to enrichment and reprocessing activities, and the "Secretariat is certain this project will not advance UNSC suspected activities." Further, the Office of Legal Affairs (OLA) noted that there was no legal constraint that precludes this project and reiterated that it is up to the Board of Governors to consider the proposed projects. This second technical briefing on the proposed TC program was called in response to Member State requests for additional information on the TC program selection process and specifically Iran's proposed projects. Representatives from the TC Department, Office of Legal Affairs, and External Relations briefed on the TC program selection procedures, including interdepartmental review of proposed projects. According to the briefers, the Secretariat draws on the IAEA Statute Article XI.E for broad

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selection criteria and INFCIRC/267 for guiding principles and general operating rules.

¶2. (SBU) Several like-minded states, including the U.S. (Australia, Canada, Finland, France, Japan, Norway, and the UK) expressed concerns on Iran's proposed projects and requested a written certification that the proposed Iran projects are consistent with both prior Board and UNSC decisions. Egypt, the only G-77 state other than Bolivia to speak on the Iran issue, said they were satisfied with the competency of the Secretariat to determine the relevancy of Board and UNSC decisions and cautioned against micromanagement of the TC program. Bolivia urged Member States to find a consensus position, cautioning that "a vote on the matter would compromise the whole TC package." The Iranian delegation challenged the legitimacy of previous Board and UNSC resolutions and reiterated Iran's intent to move ahead on the heavy water research reactor with or without Agency assistance. Iran cautioned that stopping the project would send a negative political message to Tehran, and could lead to legislation limiting cooperation with the IAEA. End Summary.

Project Selection Procedure

¶3. (U) The Technical Cooperation Department briefed on TC Program Design on November 14. The briefing covered program guidelines, including selection criteria laid out in INFCIRC/267, "Revised guiding principles and general operating rules to govern the provision of technical

assistance by the Agency" last updated in 1979. With regard to sensitive technologies, INFCIRC/267 states that technical assistance is to be subject to safeguards review. The briefing also covered the programming process, with special emphasis on the newly implemented Program Cycle Management Framework (PCMF), an information technology-based project design platform with role-based access for stakeholders. The Secretariat review process includes screening by the TC

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Department for seven criteria (Agency's mission, requesting government commitment, its national priorities, sustainability, socio-economic benefit, previous assistance, and regional implications). Technical departments screen projects for appropriateness of technology, sustainability of technology, safety, security and environmental considerations, and appropriateness of the basic nuclear infrastructure. The Safeguards Department screens projects and project designs in sensitive technology areas relative to safeguards. Projects are developed in a collaborative process with Member States, and the proposed TC program is presented to each Member State during the General Conference. Project designs and funding levels are finalized after those consultations. The Secretariat provided a slide presentation, which Mission has faxed to ISN/MNSA.

----- Member State Comments -----

14. (SBU) The discussion focused on three areas: general questions concerning the TC program selection process; the late release of documents; and specific questions regarding Iran's proposed projects, with a special focus on the Arak Heavy Water Research Reactor (IRA/9/019) safety project. Australia, Canada, France, Germany, Norway, the U.S, and the UK asked for an explanation of the criteria used in screening the Iran projects in light of safeguards concerns and the relevance of earlier Board and UNSC decisions. The U.S.

requested assurances from the Secretariat that these projects were consistent with those decisions and that the technical assistance would not contribute to the transfer to Iran of assistance that would contribute to their enrichment and reprocessing activities as mandated by UNSCR/1696. France and the UK asked that the Secretariat provide these assurances in writing. Australia noted that until the Agency completes its investigation of the Iran program, careful consideration should be applied to all requests by Iran. They noted that IAEA Statute Articles 3.A.5, 11.F.4, 12.A.7, and 12.C are all relevant to the discussion. Canada noted that the Board's prior finding of Iran non-compliance under Article 12.C provides authority to suspend technical cooperation. Canada noted that the size of the Iranian Heavy Water Research Reactor was unnecessarily large for its stated purpose of producing medical isotopes and conducting training, but is optimal for producing plutonium. Japan asked if the new TC Program Cycle Management Framework (PCMF) encouraged participation from all stakeholders, including donors, in the project selection process.

15. (SBU) France asked if there was a legal basis to link TC assistance to a state's full compliance with its safeguards obligations. Other states, the French delegation noted, should make an extra effort to ensure that they abide by UNSCR/1696 that calls on UN members not to assist Iran enrichment or reprocessing activities. France encouraged the Secretariat to fully review all proposed Iran projects and

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provide assurances that they did not contribute to these activities. Germany asked if the Secretariat had reviewed the Heavy Water Research Reactor for its technical appropriateness to perform its purpose as proposed by Iran.

16. (SBU) Two G-77 member states, Egypt and Bolivia, spoke on Iran's proposed projects. Egypt noted that all the

questions on Iran's program had come from donors and suggested that the absence of comment by recipients is indicative of their satisfaction with the TC process. Egypt said that the donor's questioning and their role in the process raises the issue of voluntary TC funding. Egypt suggested that the Secretariat address a change in the funding process. Egypt cautioned against micromanagement and stated that they are satisfied with what the Secretariat said. Egypt asked how similar UNSCRs were dealt with in the past, highlighting the case of Israel.

¶17. (SBU) Bolivia noted that nuclear technology is essential for developing nations and cautioned against politicizing the issue. Since Iran's program is in question, the Board has to be "careful to minimize the impact so that it doesn't compromise the whole package of TC." Bolivia added that a vote would damage the cooperation that has been built between developed and developing states, noting consensus must be reached. The Bolivian delegate concluded by noting that it appeared that the question concerns one project in Iran, not Iran's whole program.

¶18. (U) Other comments by G-77 concerned the distribution of projects between each of the regions and the percentage of unfunded Footnote-a projects.

Secretariat Response - No Linkage

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¶19. (SBU) In response to the questions, the Secretariat reiterated that staff follows criteria established in INFCIRC/267, which specifically calls for a safeguards review of proposed projects. For the 2007-2008 Proposed TC Program they received written notice from the Safeguards Department that there were no projects of concern. The Office of External Relations noted that the Director General (DG) requested that in light of previous concerns regarding Iran, that the projects be additionally reviewed in four sensitive areas. Based on this review, "Project IRA/9/019 does not have a direct link to enrichment or reprocessing activities." Further, it was the Secretariat's view that "these programs will not contribute to the advancement of UNSCR suspected activities."

¶10. (SBU) The Office of Legal Affairs (OLA) noted that a footnote referencing BOG and UNSC resolutions was added to the Arak project description in the Agency's project listings document. This reference was added to "make the Member States aware" and "to ensure them that it was taken into account." OLA noted that the Iran projects were screened for relevance to the UNSCR by different Agency Departments. Further since this is a DG report, it was approved by the DG after "a very thorough clearance and screenings process." OLA said that they studied INFCIRC/267, the IAEA Statute, and previous BOG and UNSC resolutions and noted that neither the

BOG nor UNSCR referred to suspending TC in Iran. Additionally, there has been no call on Iran to suspend the Heavy Water Research Reactor, only reconsider the project. The Secretariat concluded there was no legal constraint that precludes accepting this project; therefore it would be up to the Board to decide.

¶11. (SBU) In response to France's question concerning the link between receiving technical assistance and meeting safeguards obligations OLA noted that INFCIRC/267 is explicit in requiring a safeguards review of projects. OLA noted there is no language in the Statute that releases it from meeting its obligations under safeguards if technical assistance is suspended. OLA cited four cases where the BOG approved suspension of TC after UNSC resolutions, Israel in 1981, Iraq in 1990, Yugoslavia in 1992, and the DPRK in 1994.

¶12. (SBU) The Secretariat acknowledged that the documents

were released late and said that they would try to release them earlier in the future.

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Iran Comments

¶13. (SBU) Iranian Ambassador Soltanieh reiterated comments made in the Agency's first technical briefing on the proposed TC program on November 2.

- The Agency should not allow the TC selection process to be politicized.
- The IAEA Statute, Article 3 states the Agency should provide technical assistance without making the assistance "subject to any political, economic, military, or other conditions."
- The General Conference, as the highest authority of the Agency, approved a resolution in September 2006 calling on states to seek safety reviews and safety assistance from the Agency. Further, states should adopt safety standards to prevent another Chernobyl.
- Members should not underestimate the technical competence of the Secretariat in making selection decisions.
- Iran's Heavy Water Reactor will be operational, as a national project, because Iran needs it desperately. It is better to have it under safeguards and under the Safety Department. Iran wants to ensure that it meets applicable safety standards.
- All of Iran's small scale reprocessing activities had been stopped 14 years ago. There is no legal basis for previous BOG and UNSC resolutions.
- The Heavy Water Research Reactor was fully reviewed, including the hot cells. The hot cells are not capable of reprocessing, even though Iran has the right to reprocess. There are no limits in the Statute on reprocessing, but Iran is not going to reprocess.
- The Heavy Water Research Reactor will be used for the production of medical isotopes.
- A negative decision on this project will be "politically messy for Iran" and could lead to legislation from Tehran's Parliament that would limit cooperation with the Agency.
- Applying IAEA Statute Article 12.C in this case is not valid because the process has not been followed; inspections have continued in Iran and the suspect activity happened many years in the past.
- If Iran instead built a light water reactor it would need to produce Highly Enriched Uranium (HEU) at Natanz, enriched to 92%, in order to produce the needed medical isotopes.
- The Heavy Water Research Reactor needs to be very powerful to produce the same neutron flux as a less powerful light water reactor.

Comment

¶14. (SBU) The Secretariat's declaration that there is no linkage between the Heavy Water Research Reactor project (IRA/9/019) and relevant Board and UNSC resolutions has no doubt given some wavering states sufficient rationale to accept inclusion of the project in the Agency's TC program. Through briefings and bilateral meetings, UNVIE is working to assure that all Board Members and other influential delegations understand the implications of the Arak project and support an acceptable outcome.
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